



City of Broken Arrow
Minutes
Broken Arrow Industrial Trust
Special Meeting

City Hall
220 S 1st Street
Broken Arrow OK
74012

Trustee Michael Spurgeon
Trustee Ted Cundiff
Trustee Wes Smithwick

Tuesday, July 25, 2017

Council Chambers

1. Call to Order

Michael Spurgeon called the special meeting to order at approximately 5:12 p.m.

2. Roll Call

Present: 3 - Michael Spurgeon, Wes Smithwick, Ted Cundiff

3. Presentations

A.

Presentation, consideration, and discussion, to include the background and an overview of the Broken Arrow Industrial Trust

City Attorney Beth Anne Childs stated the Broken Arrow Industrial Trust (BAIT) was created pursuant to a Trust Indenture dated 11/01/1962 and the City Council had previously accepted sole and exclusive beneficial interest in the Trust on the same date. The Trust was formed for the purpose of permitting the City of Broken Arrow to own, acquire, construct, reconstruct, extend, equip, improve, maintain, sell, lease, contract concerning or otherwise deal in, or dispose of, any lands, buildings or facilities in every way and in any nature that could be used for acquiring or developing industry within or near the City of Broken Arrow in accordance with the local Industrial Development Act. The Trust currently had three Trustees, one occupied the office of City Manager, and the other two were appointed by the Board of Directors of the Broken Arrow Chamber of Commerce, accomplished in the last few weeks; Mr. Smithwick and Mr. Cundiff were the recipients of that vote.

She expressed it was interesting because, although it was in the audit every year, the Legal Department was not aware of the Broken Arrow Industrial Trust until the 9th Street land acquisitions. She stated it was at that point Legal engaged the services of Kivell Rayment & Francis P.C. to help decipher who owned a parcel of the land. She explained every year, PACCAR, who was the current tenant of this particular tract, which was actually located slightly off 9th Street behind the existing building, paid a less than fair market value, probably, for rent. She indicated originally the Trust did encumber indebtedness in order to construct the building, but that indebtedness had been legally cleared. She stated as she, the City Manager, and Assistant Manager discussed this, it was felt now was an opportune moment to update the Trust Indenture, and to provide for the appointment of the City Council Members as the Trustees. In other jurisdictions, there were various lay members that were members of public trusts and she felt continuity worked very well in Broken Arrow and felt appointing the City Council Members was an excellent recommendation. She stated at the present time the Trust only owned one parcel of land. She explained there had been some confusion as a legal description mistake had been made approximately 30 years prior, and thanked representatives in Engineering and Construction for assisting Legal to determine there was only the sole land parcel owned by the Broken Arrow Industrial Trust. She asked if there were questions; there were none.

4. General Authority Business

- A. Consideration, discussion, and possible approval of Resolution No. 1028, a resolution of the Broken Arrow Industrial Trust, an Oklahoma Public Trust, approving and authorizing a First Amendment to the Trust Indenture of the Broken Arrow Industrial Trust, which provides for clarification of the language describing the trust estate; which further provides that the trustees shall be the members of the Broken Arrow City Council, as said Council is from time to time constituted; which further provides that the Mayor of the City Of Broken Arrow shall be the Chairman of the Trust and the Vice-Mayor shall be the Vice-Chairman of said Trust; which further provides for the clarification and expansion of the powers and duties of the trustees in accordance with the purposes set forth in said Trust Indenture; and which further provides for addition of a new section providing for a secretary, treasurer, and manager of the trust; to reaffirm and re-accept the Trust herein created for and provided for; to agree to carry out the provisions of the Trust Indenture and all amendments thereto; and finding that such actions are in the best interests of the City Of Broken Arrow and the health, safety, and welfare of the city and residents within and near the city

MOTION: A motion was made by Wes Smithwick, seconded by Ted Cundiff
Move to approve Resolution No. 1028 and authorize its execution.

The motion carried by the following vote:

Aye: 3 - Michael Spurgeon, Wes Smithwick, Ted Cundiff

5. Adjournment

The meeting adjourned at approximately 5:18 p.m.

MOTION: A motion was made by Wes Smithwick, seconded by Michael Spurgeon
Move to adjourn.

The motion carried by the following vote:

Aye: 3 - Michael Spurgeon, Wes Smithwick, Ted Cundiff

Attest:

Chairman

Secretary